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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2018-048871

13 **Patrick Stephen Clyne, M.D.**
14 **Pediatric Med Grp. of Watsonville**
222 Green Valley Road
15 Freedom, CA 95019-3136

FIRST AMENDED ACCUSATION

16 **Physician's and Surgeon's Certificate**
No. G 79053,

17 Respondent.
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19 **PARTIES**

20 1. William Prasifka (Complainant) brings this First Amended Accusation solely in his
21 official capacity as the Executive Director of the Medical Board of California, Department of
22 Consumer Affairs (Board).

23 2. On or about June 8, 1994, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G 79053 to Patrick Stephen Clyne, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on October 31, 2021, unless renewed.
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4. Section 2004 of the Code states:

“(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice

“(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

“(e) Reviewing the quality of medical practice carried out by physician and surgeon
licensure holders under the jurisdiction of the board.

“(g) Approving clinical clerkship and special programs and hospitals for the programs in vision (f).

“(i) Administering the board's continuing medical education program.”

6. Section 2234 of the Code, states:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

1 (b) Gross negligence.

2 (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
3 omissions. An initial negligent act or omission followed by a separate and distinct departure from
4 the applicable standard of care shall constitute repeated negligent acts.

5 (1) An initial negligent diagnosis followed by an act or omission medically appropriate for
6 that negligent diagnosis of the patient shall constitute a single negligent act.

7 (2) When the standard of care requires a change in the diagnosis, act, or omission that
8 constitutes the negligent act described in paragraph (1), including, but not limited to, a
9 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
10 applicable standard of care, each departure constitutes a separate and distinct breach of the
11 standard of care.

12 (d) Incompetence.

13 (e) The commission of any act involving dishonesty or corruption that is substantially
14 related to the qualifications, functions, or duties of a physician and surgeon.

15 (f) Any action or conduct that would have warranted the denial of a certificate.

16 (g) The failure by a certificate holder, in the absence of good cause, to attend and
17 participate in an interview by the board. This subdivision shall only apply to a certificate holder
18 who is the subject of an investigation by the board.

19 7. Section 2227 of the Code provides that a licensee who is found guilty under the
20 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
21 one year, placed on probation and required to pay the costs of probation monitoring, or such other
22 action taken in relation to discipline as the Board deems proper.

23 8. All of the incidents alleged herein occurred in California.

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FIRST CAUSE FOR DISCIPLINE
(Unprofessional Conduct: Gross Negligence/Repeated Negligent Acts – Patient One)¹

9. Respondent has subjected his license to disciplinary action under sections 2234 [unprofessional conduct], 2234(b) [gross negligence] and/or 2234(c) [repeated negligent acts], for unprofessional conduct, in that his care and treatment of Patient One included departures from the standard of care constituting gross negligence and repeated negligent acts. The circumstances are as follows:

10. On or around January 24, 2014, Patient One, then nine years old, was seen by Respondent for a routine physical exam. Patient One was fully clothed for the visit. Respondent told Patient One's mother that Respondent had to take Patient One's pants and underwear off. He said he was going to check Patient One's stomach and that he would have to put his fingers in her vagina in order to examine her stomach. The mother took Patient One and left before the examination could be conducted.

11. Respondent is guilty of unprofessional conduct and subject to disciplinary action under sections 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c) [repeated negligent acts] of the Code, including but not limited to, the following:

A. Failure to follow a standard well child check and with standard Tanner staging² when there is no indication to insert a finger or speculum into the vagina.

SECOND CAUSE FOR DISCIPLINE
(Unprofessional Conduct: Gross Negligence/Repeated Negligent Acts - Patient Two)

12. Respondent has subjected his license to disciplinary action under sections 2234 [unprofessional conduct], 2234(b) [gross negligence], and/or 2234(c) [repeated negligent acts], for unprofessional conduct, in that his care and treatment of Patient Two included departures from the standard of care constituting gross negligence, and/or repeated negligent acts. The circumstances are as follows:

¹ The patients are identified herein as Patient One through Patient Ten to preserve confidentiality. The patients' names will be provided to Respondent in discovery.

² Also known as Sexual Maturity Rating (SMR), it is an objective classification system that providers use to document and track the development and sequence of secondary sex characteristics of children during puberty.

1 13. On or about May 7, 2018, Patient Two, then eight years old, was seen by Respondent
2 for a routine physical exam. Initially, Patient Two was provided a gown to wear over his
3 underwear. During the examination, Respondent had Patient Two completely disrobe and walk
4 around the room apparently to evaluate the patient's balance.

5 14. Without indication that Patient Two had constipation, blood in the stool or
6 neurological complaints, Respondent used his hands to spread Patient Two's buttocks apart and
7 asked Patient Two if he cleaned his anus well.

8 15. Respondent is guilty of unprofessional conduct and subject to disciplinary action
9 under sections 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c)
10 [repeated negligent acts] of the Code, including but not limited to, the following:

11 A. Failure to follow a standard well child check.

12 **THIRD CAUSE FOR DISCIPLINE**
13 **(Unprofessional Conduct: Repeated Negligent Acts – Patient Three)**

14 16. Respondent has subjected his license to disciplinary action under sections 2234
15 [unprofessional conduct], and 2234(c) [repeated negligent acts] for unprofessional conduct, in
16 that his care and treatment of Patient Three included departures from the standard of care
17 constituting repeated negligent acts. The circumstances are as follows:

18 17. Respondent saw and treated Patient Three from around October 14, 2014 to February
19 8, 2019. On December 14, 2016, Respondent noted in the records that Patient Three
20 demonstrated Attention Deficit Hyperactivity Disorder (ADHD) behavior in class but not at
21 home. There is reference in the charts to Vanderbilt questionnaire results,³ but the questionnaire
22 and actual scores are not in the records. Additionally, there is no evidence of any discussion with
23 the parent or patient regarding risks versus benefits of medication for ADHD. The patient was
24 started on 27 mg. of Concerta,⁴ not the traditional starting dose of 18 mg. Records for the follow-

25 ³ The NICHQ Vanderbilt Assessment Scales are used by health care professionals to help diagnose ADHD in children between the ages
26 of 6 and 12-years of age.

27 ⁴ Concerta, the trade name for methylphenidate hydrochloride, is a CNS stimulant indicated for the treatment of attention deficit
28 hyperactivity disorder ("ADHD"). Methylphenidate should be given cautiously to patients with a history of drug dependence or alcoholism.
Chronic abusive use can lead to marked tolerance and psychological dependence with varying degrees of abnormal behavior. The minimum
dosage is one, 18 mg. tablet daily; the maximum dosage is one, 54 mg. tablet daily. Methylphenidate is a dangerous drug as defined in section
4022 of the Code and a Schedule II controlled substance under Health and Safety Code section 11055(d)(6).

up visits list vital signs but are deficient in review of progress, side effects and necessary vital sign data for Patient Three in light of his course of treatment for ADHD.

18. Respondent is guilty of unprofessional conduct and subject to disciplinary action under sections 2234 [unprofessional conduct] and/or 2234(c) [repeated negligent acts] of the Code, including but not limited to, the following:

A. The care delivered on the visits since the stimulants were started for ADHD were not consistent with the standard of care for the diagnosis, treatment and follow-up of ADHD involving the use of psychostimulant medication.

FOURTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct: Repeated Negligent Acts – Patient Four)

19. Respondent has subjected his license to disciplinary action under sections 2234 [unprofessional conduct], and 2234(c) [repeated negligent acts] for unprofessional conduct, in that his care and treatment of Patient Four included departures from the standard of care constituting repeated negligent acts. The circumstances are as follows:

20. Patient Four appears to have been treated by Respondent between at least August 4, 2017, and February 27, 2019. On August 17, 2018, Patient Four, then sixteen years old, was seen by Respondent for a physical examination. The mother of Patient Four alleges that Respondent did not use gloves during an examination of the patient's genitalia.

21. Patient Four had previously been diagnosed with ADHD by another treatment provider. Respondent's records first note an ADHD diagnosis on August 4, 2017, with a prescription for 27 mg. of Concerta for use on school days. However, there is no reference in the medical records regarding the original diagnosis, response to treatment or medication side effects, including risk versus benefits of the prescribed medicines. Records of subsequent visits are inconsistent with respect to review of potential side effects and full vital signs that are important when stimulants are prescribed.

22. Respondent is guilty of unprofessional conduct and subject to disciplinary action under sections 2234 [unprofessional conduct] and/or 2234(c) [repeated negligent acts] of the Code, including but not limited to, the following:

1 A. Failure to follow a standard well child check.

2 B. The care delivered to the patient on the visits since the stimulants were started for
3 ADHD were not consistent with the standard of care for the diagnosis, treatment and follow-up of
4 ADHD involving the use of psychostimulant medication.

5 **FIFTH CAUSE FOR DISCIPLINE**
6 **(Unprofessional Conduct: Repeated Negligent Acts – Patient Five)**

7 23. Respondent has subjected his license to disciplinary action under sections 2234
8 [unprofessional conduct], and 2234(c) [repeated negligent acts] for unprofessional conduct, in
9 that his care and treatment of Patient Five included departures from the standard of care
10 constituting repeated negligent acts. The circumstances are as follows:

11 24. Respondent treated Patient Five between around August 15, 2017 and February 27,
12 2019. On around August 17, 2018, and April 15, 2019, Respondent saw Patient Five, then
13 thirteen and fourteen years old, for a physical examination. Patient Five's mother alleges that
14 Respondent did not use gloves during an examination of the patient's genitalia.

15 25. Patient Five appears to have been diagnosed with ADHD by another treatment
16 provider prior to July 29, 2017. However, there is no reference in the medical records regarding
17 the original diagnosis. There is no record of assessment tools being used for the ADHD diagnosis
18 and no significant reference to the symptoms. The records of subsequent follow-up visits are
19 deficient in regard to review of the patient's progress, the medication's side effects, vital sign
20 data, and medication risks versus benefit consultations or advisements.

21 26. Respondent is guilty of unprofessional conduct and subject to disciplinary action
22 under sections 2234 [unprofessional conduct] and/or 2234(c) [repeated negligent acts] of the
23 Code, including but not limited to, the following:

24 A. Failure to follow a standard well child check.

25 B. The care delivered to the patient on the visits since the stimulants were started for
26 ADHD were not consistent with the standard of care for the diagnosis, treatment and follow-up of
27 ADHD involving the use of psychostimulant medication.

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SIXTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct: Repeated Negligent Acts – Patient Six)

27. Respondent has subjected his license to disciplinary action under sections 2234 [unprofessional conduct], and 2234(c) [repeated negligent acts] for unprofessional conduct, in that his care and treatment of Patient Six included departures from the standard of care constituting repeated negligent acts. The circumstances are as follows:

28. Respondent treated Patient Six between around July 29, 2017 and April 29, 2019. Around August 29, 2017, Respondent refilled a prescription for methylphenidate ER 27 mg., #30, for Patient Six, then six years old. Respondent's records for this patient contain no prior diagnosis of ADHD and there is no evidence in the chart of any assessment tools being used, and no significant reference is made to the symptoms. Additionally, there is no indication of response to treatment or medication side effects, or reference to risks versus benefit consultations or advisements.

29. Respondent is guilty of unprofessional conduct and subject to disciplinary action under sections 2234 [unprofessional conduct] and/or 2234(c) [repeated negligent acts] of the Code, including but not limited to, the following:

A. The care delivered to the patient on the visits since the stimulants were started for ADHD were not consistent with the standard of care for the diagnosis, treatment and follow-up of ADHD involving the use of psychostimulant medication.

SEVENTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct: Gross Negligence/Repeated Negligent Acts – Patient Seven)

30. Respondent has subjected his license to disciplinary action under sections 2234 [unprofessional conduct], 2234(b) [gross negligence] and/or 2234(c) [repeated negligent acts], for unprofessional conduct, in that his care and treatment of Patient Seven included departures from the standard of care constituting gross negligence and repeated negligent acts. The circumstances are as follows:

31. Respondent examined Patient Seven, a female, on June 16, 2008 and June 4, 2009, at Santa Clara Valley Medical Center for well-child visits. Patient Seven was 9 years old at the time

1 of the first visit and was examined by Respondent without another adult in the room during either
2 of the visits. During the examinations Patient Seven was asked to take off her undergarments,
3 without the use of a gown, and sit like a frog so that Respondent could check Patient Seven's
4 genitalia.

5 32. Respondent is guilty of unprofessional conduct and subject to disciplinary action
6 under sections 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c)
7 [repeated negligent acts] of the Code, including but not limited to, the following:

8 A. Failure to follow a standard well child check by requiring a preadolescent female to
9 disrobe without a gown and without a chaperone present, and examining a disrobed preadolescent
10 female without a guardian or chaperone in the room.

11 **EIGHTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct: Gross Negligence/Repeated Negligent Acts – Patient Eight)**

13 33. Respondent has subjected his license to disciplinary action under sections 2234
14 [unprofessional conduct], 2234(b) [gross negligence] and/or 2234(c) [repeated negligent acts], for
15 unprofessional conduct, in that his care and treatment of Patient Eight included departures from
16 the standard of care constituting gross negligence and repeated negligent acts. The circumstances
17 are as follows:

18 34. Respondent examined Patient Eight, a female, on April 14, 2008 and April 23, 2009,
19 at Santa Clara Valley Medical Center for well-child visits. Respondent also saw Patient Eight on
20 September 9, 2009 and October 19, 2009, for vaccination follow-ups.

21 35. Patient Eight was 7 and a half years old at the time of the first visit and was examined
22 by Respondent without another adult in the room during the April 14, 2008 and April 23, 2009
23 visits. During the April 14, 2008 and April 23, 2009 visits, Respondent directed Patient Eight to
24 squat like a frog and place her legs in a frog position while unclothed, but for a gown.
25 Respondent then used his fingers and examined Patient Eight's genitalia.

26 36. Respondent is guilty of unprofessional conduct and subject to disciplinary action
27 under sections 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c)
28 [repeated negligent acts] of the Code, including but not limited to, the following:

1 A. Failure to follow a standard well child check by examining a preadolescent female
2 without a chaperone present, and by Respondent's use of his fingers to examine the genitalia of a
3 preadolescent female without a guardian or chaperone in the room.

4 **NINTH CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct: Gross Negligence/Repeated Negligent Acts – Patient Nine)**

6 37. Respondent has subjected his license to disciplinary action under sections 2234
7 [unprofessional conduct], 2234(b) [gross negligence] and/or 2234(c) [repeated negligent acts], for
8 unprofessional conduct, in that his care and treatment of Patient Nine included departures from
9 the standard of care constituting gross negligence and repeated negligent acts. The circumstances
10 are as follows:

11 38. Respondent examined Patient Nine, a male, on March 24, 2009, at Santa Clara Valley
12 Medical Center for a well-child visit. Respondent also saw the Patient Nine on June 4, 2009, for
13 follow-up appointment, and then again on September 7, 2009, for a flu shot.

14 39. Patient Nine was 9 years old at the time of the March 24, 2009 visit. During that
15 examination, a nurse was in the room while Respondent examined Patient Nine's upper body.
16 Patient Nine was clothed during this part of the examination. When the nurse left the room,
17 Respondent directed Patient Nine to unzip his pants and lower his underwear, and then, while
18 wearing gloves, examined Patient Nine's penis. There was no other adult in the room for this part
19 of the examination.

20 40. Respondent is guilty of unprofessional conduct and subject to disciplinary action
21 under sections 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c)
22 [repeated negligent acts] of the Code, including but not limited to, the following:

23 A. Failure to follow a standard well child check by examining a preadolescent male
24 without a chaperone present, and by failing to have a chaperone in the room while Respondent
25 used his hand to examine the genitalia of a preadolescent male.

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TENTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct: Gross Negligence/Repeated Negligent Acts – Patient Ten)

41. Respondent has subjected his license to disciplinary action under sections 2234 [unprofessional conduct], 2234(b) [gross negligence] and/or 2234(c) [repeated negligent acts], for unprofessional conduct, in that his care and treatment of Patient Ten included departures from the standard of care constituting gross negligence and repeated negligent acts. The circumstances are as follows:

42. Respondent examined Patient Ten, a female, on June 11, 2007, February 21, 2008, June 17, 2008, July 21, 2008, May 7, 2009 and June 4, 2009, at Santa Clara Valley Medical Center. Patient Ten was 6 years old at the time of the first examination and 8 years old by the time of the June 4, 2009 examination. During the June 4, 2009 examination Respondent directed Patient Ten to lay down and place her legs in a frog position. Patient Ten was not fully clothed. Patient Ten asked why a "girl" or female physician was not directing the examination, but Respondent told Patient Ten that he was the doctor. Respondent then examined Patient Ten's genitalia with his fingers, without a chaperone or guardian in the room.

43. Respondent is guilty of unprofessional conduct and subject to disciplinary action under sections 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c) [repeated negligent acts] of the Code, including but not limited to, the following:

A. Failure to follow a standard well child check by examining a preadolescent female without a chaperone present, requiring a preadolescent female to disrobe without a gown and without a chaperone, and by Respondent's use of his fingers to examine the genitalia of a preadolescent female without a guardian or chaperone in the room.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 79053,
issued to Patrick Stephen Clyne, M.D.;


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1 2. Revoking, suspending or denying approval of Patrick Stephen Clyne, M.D.'s
2 authority to supervise physician assistants and advanced practice nurses;

3 3. Ordering Patrick Stephen Clyne, M.D., if placed on probation, to pay the Board the
4 costs of probation monitoring; and

5 4. Taking such other and further action as deemed necessary and proper.

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7 DATED: **JUN 21 2021**



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant